



Appl. No. 10/525,544

Response to Office Action Summary

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/525,544)	
Applicant	:	Simon, William H.)	30 July 2009
Filed	:	01/28/2005)	
)	
TC/A.U.	:	3775)	
Examiner	:	Araj, Michael J.)	
Docket No.	:	Simon-1)	
)	For: Method and Apparatus for Repairing
)	the Mid-Foot Region via an Intramedullary
)	Nail
Commissioner for Patents)	
Mail Stop: Amendment)	
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Remarks

In regards to the drawings being objected to - Replacement drawing sheets in compliance with 37 CFR 1.121(d) are submitted with this office action response. No new matter has been added.

In regards to claims 1-9 being rejected under 35 USC 102(b) as being anticipated by Perry (U.S. Pat. Num. 5,766,174) herein referred to as Perry.

Perry claims an intramedullary nail for insertion into bone tissue having a single straight solid intramedullary nail metal body with a proximal portion and a distal portion. The distal portion terminates in a tip with an arcuate terminus with a proximal portion having a cylindrical shaft having an end. The end is threaded to receive a threaded anvil. ***The distal portion has a rectangular section having parallel sides and opposed flat faces*** with the ***rectangular portion*** disposed between the cylindrical portion and the tip. ***The rectangular section*** of the distal portion of the nail is ***adapted to provide torsional stability*** to the intramedullary nail in bone tissue where the ***opposed flat surfaces*** converge toward the tip and the ***tip forms a tapered blade*** and the cylindrical shaft has at least one transfixation hole defined therein.

The present application claims a device for treatment or fixation of a fractured, damaged or deteriorating bone or bones in a mid-foot region, said device having a proximal end, a distal end,

and a central elongated body, said device comprising an attaching means to a bone or bones of a foot such that said attaching means secures said mid-foot region.

The intramedullary nail of the present application has a central cylindrical elongated body with a chamfered end, as defined by a reduction in diameter by a 45 degree chamfer between the cylindrical body and the right angle end, and slots for optionally securing the navicular bone and/or the medial cuneiform bone. The intramedullary nail of Perry does not describe nor claim at least one slot for optionally securing the navicular bone or the medial cuneiform bone nor both the navicular bone and the medial cuneiform bone nor a chamfered cylindrical end. Perry teaches away from a cylindrical chamfer on the end of the intramedullary nail specifically noting that the, “Distal flat section [76] provides anti-rotational stability even without transfixation at distal transfixation holes [36a] and [36b]. (Col. 4; lines 32-34). Perry further describes the distal section in that the, “Distal section [76] has at least one flat surface [77] and more preferably opposed flat surfaces [77] and [79]. The distal end of distal section [76] comprises nail tip [80] having triangular tissue penetrating point [82]” (Col. 3; lines 63-66). The intramedullary nail of the present application does not disclose nor claim a triangular tissue penetrating point. Perry also describes, “... that distal section [76] and the most preferred embodiment, and is best shown in Fig. 5 is tapered preferably the entire length of distal section [76].” As defined by Webster, a taper is a gradual diminution of diameter or a gradual decrease in diameter. As shown in Fig. 1 and Fig. 2 of the present application there is no defined distal end having flat surfaces, triangular tissue penetrating point or by a taper. The unique defining structural feature is the chamfer on the proximal end [11] of the central cylindrical elongated body.

Claim 1 has been duly amended to more clearly describe the device of the present application on which amended claims 2-9 depend.

Claims listing:

Claims 1-9 (Currently amended)

Claims 10-20 (Canceled)